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fixing any appearance day therefor, and which therefore must be returnable within a reasonable time, will be held returnable within such 90 days, and, so being made returnable after such time, is, as a writ to commence the proceeding, a void process, giving the court no jurisdiction to hear and determine the controversy; and motion to quash the notice and dismiss the proceeding should be sustained.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 129.]

Error to Circuit Court, Bath County.

Proceeding by motion for judgment by one Schreck against the Virginia Hot Springs Company. Judgment for plaintiff, and defendant brings error. Reversed, with directions.

J. T. McAllister, of Hot Springs, and *Allen & Walsh*, of Charlottesville, for plaintiff in error.

John W. Stephenson & Son, of Warm Springs, *Geo. A. Rivercomb*, and *Timberlake & Nelson*, of Staunton, for defendant in error.

HITT v. COMMONWEALTH.

Nov. 17, 1921.

[109 S. E. 597.]

1. Indictment and Information (§ 191 (1*))—General Blanket Form Indictment Would Not Support Conviction for Drinking Whisky or of Receiving Ardent Spirits.—Defendant, being prosecuted for violation of the prohibition act under indictment in the general blanket form suggested in section 7 thereof, charging that defendant "did unlawfully manufacture, sell, offer, keep, store and expose for sale, give away, transport, dispense, solicit, advertise and receive orders for ardent spirits," could not be convicted of drinking whisky, in violation of section 37, or of receiving ardent spirits, in violation of section 40.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 188.]

2. Intoxicating Liquors (§ 138*)—Whisky Bottle Carried in Coat Pocket or in Automobile Not Carried in "Baggage" within Prohibition Act.—A bottle of whisky carried in coat pocket or in automobile held not carried in baggage within prohibition act, permitting traveler to carry certain amount of liquor in his "baggage."

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Baggage.]

3. Intoxicating Liquors (§ 131*)—Transportation of Liquor to Be Unlawful Need Not Be for Purpose of Sale.—Transportation of liquor, to be unlawful under Prohibition Act of 1918, §§ 3, 39, need not

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

be for purpose of sale in view of blanket form of indictment set out in section 7.

4. Criminal Law (§ 883*)—General Verdict in Prosecution under General Blanket Form of Indictment Held Sufficient.—In prosecution for violation of prohibition act under the general blanket form of indictment set out in Prohibition Act of 1918, § 7, verdict held not defective for failure to specify the particular offense of which defendant was found guilty.

5. Criminal Law (§ 881 (4)*)—General Verdict of Guilty upon Indictment Charging Several Offenses Will Protect Defendant from Subsequent Prosecution for Any Thereof.—A general verdict of guilty upon an indictment charging several offenses will protect a defendant from a subsequent prosecution for any thereof.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 188.]

6. Intoxicating Liquors (§ 167*)—Occupant of Automobile Who Drank from Whisky Bottle Handed Him by Driver Held Not Guilty of Unlawfully Transporting Liquor.—Occupant of automobile who took a drink from bottle of whisky handed him by driver, and who thereupon handed bottle back to driver, held not guilty of unlawfully transporting liquor in violation of Prohibition Act of 1918, § 3, or section 39, not being a principal in the first degree because not an actor in the transportation nor an accessory under section 3a, because present during the commission of the offense nor a principal in the second degree because in no way aiding or abetting the transportation.

7. Criminal Law (§ 59 (3)*)—"Accessory" Defined.—An "accessory" is one not present at the commission of the offense, but who is in some way concerned therein either before or after as contriver, instigator, or adviser, or as a receiver or protector of the perpetrator.

[Ed. Note.—For other definitions, see Words and Phrases, First and Second Series, Accessory. For other cases, see 1 Va.-W. Va. Enc. Dig. 74.]

Error to Circuit Court, Rockingham County.

Tony Hitt was convicted of violating the state prohibition act, and he brings error. Reversed.

F. C. Stipes, and John Paul, of Harrisonburg, for plaintiff in error.

John R. Saunders, Atty. Gen., J. D. Hank, Jr., Asst. Atty. Gen., and Leon M. Bazile, Second Asst. Atty. Gen., for the Commonwealth.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.